

MISC Docket No. 2020-35780

In re. P.C.F. Properties in TX, LLC	§	IN THE DISTRICT COURT OF
<i>Plaintiffs/Counter-Defendants</i>	§	
<i>vs</i>	§	
	§	
James M. Andersen, Elizabeth Thomas	§	80 th JUDICIAL DISTRICT COURT
Jasmine B .Jarbis, Jireh Pitts, and	§	
Monique Moore et al.	§	
<i>Defendants/Third-Party Plaintiff</i>	§	HARRIS COUNTY, TEXAS
	§	
	§	“JURY TRIAL DEMANDED”

ORIGINAL ANSWER AND COUNTERCLAIM

Comes now, James M. Andersen and files this Original Answer and Counter Claim against P.C.F. Properties in TX, LLC a purported Texas limited liability company , and in support thereof, would show unto the Court:

I. ORIGINAL ANSWER

A. *Affirmative Defenses*

- Defendant pleads the affirmative defense of fraud this type of action is only available to the current owner of the property and according to the Harris County Real Property Record P.C.F. Property in TX, LLC is not the current owner.
- Defendant pleads the affirmative defense of illegality.
- Defendant pleads the affirmative defense of res judicata. Multiple lawsuits and orders concerning the subject property exists which limits Plaintiff’s right to recovery.

B. *General Denial*

- Defendant enters a general denial on each and every cause of action and demands strict proof thereof.

II. COUNTERCLAIM

A. Preamble:

5. This case is the latest attempt in a saga that spans more than 4 years of the debt collectors Barry & Swart PLLC., attempt to collect an unlawful debt. Barry & Swart PLLC, and its client Plaintiff P.C.F. Properties in TX, LLC, as part of statewide RICO Enterprise scheme in the State of Texas in which they attempt to collect outstanding mortgage debts for a lender named FLAGSTONE LENDING GROUP a purported State of Utah Corporation and/or MTH LENDING GROUP LP., a a purported State Texas Corporation whom also operated out of the State of Utah, none of these alleged lenders had any license as a matter of fact FLAGSTONE LENDING GROUP a purported State of Utah Corporation has no legal existence instead.

Statement of Facts

6. On October 19, 2007, Elizabeth Thomas attended a real estate settlement closing at f/k/a MTH Title Company L.C., with her lender MTH Lending Group L.P, license address being 550 Westcott, STE 450, Houston Tex, 77007, and executed loans document for a Texas Equity mortgage loan in the amount of \$235, 262.37, an interest rate of 6.375% (the “Loan and Mortgage”) for the refinance of property at 8202 Terra Valley Lane, Tomball Tx. 77375.

7. On October 19, 2007, although Ms. Thomas executed the loan documents with lender MTH Lending Group L.P, sold the loan and the Deed of Trust securing the mortgage loan were executed in the name of MTH Lending Group L.P, then partner **Flagstone Lending Group L.P.**, a Texas limited Partnership address being 8501 Katy Freeway Houston Texas 77024.

8. Instead unknown is the fact that on October 19, 2007, a “Deed of Trust” was filed in the Harris County Real Property Records which names the lender FLAGSTONE LENDING

GROUP, a purported State of Utah Corporation as the beneficiary of a alleged money purchase loan to Ms. Thomas allegedly funded in the amount of \$239,400.00, and names Tilwa Grooms as the Trustee.

9. Flagstone Lending Group is a Non-Existent Foreign “Utah Corporation” and MTH Lending Group L.P., a Non-Existent “Texas Corporation” “do not” hold a “Regulated Loan License” as required to engage in the business of making, transacting, or negotiating loans mandatorily required pursuant to Texas Finance Code § 342.051 and operating without a license is *illegal* its a criminal offense a “*felony of the third degree*” pursuant to Texas Finance Code 151.708(2).

10. FLAGSTONE LENDING GROUP is an Non-Existent “Utah Corporation” and MTH Lending Group L.P., a Non-Existent “Texas Corporation” operated **their** criminal illegal lending business in the State of Texas among through Twila Grooms Law Firm LLP, Barry & Sewart PLLC, John V Burger and P.C.F. Properties in TX, LLC.

11. On or about December 27, 2016, recorded in the Harris County Real Property Records was Special Warranty Deed which dissolved the trust created in favor of beneficiary FLAGSTONE LENDING GROUP is a Non-Existent “Utah Corporation” “as a non-existent entity cannot be a beneficiary of a trust.

12. On February 23, 2018, a Satisfaction and Release of FLAGSTONE LENDING GROUP a Non-Existent Foreign “Utah Corporation” Deed of Trust was recorded in the Harris County Real Property Records including that said deed of trust no longer has any force of effect as of December 27, 2026.

13. On February 14, 2019, the Honorable Judge McFarland has already ruled the Deed of Trust is not a vaild lien.

14. On March 3, 2020, P.C.F. PROPERTIES IN TX. LLC, a Texas limited liability company claims to have allegedly foreclosed on FLAGSTONE LENDING GROUP a a Non-Existent Foreign “Utah Corporation” that has been recorded in the Harris County Real Property as release since the year of 2026 the power of sale no longer having any legal force or effect.

15. P.C.F. PROPERTIES IN TX. LLC, a Texas limited liability company is separate and distinct entity from P.C.F. Properties in TX, LLC, in that this entity according to the Texas Secretary of State is not a Texas limited liability company.

16. According to the Texas Secretary of State the entity P.C.F. Properties in TX, LLC, has no legal existence in the State of Texas due to never being legally form. Instead this entity which lacks a legal existence was created by P.C.F. PROPERTIES IN TX. LLC, John V. Burger and Barry & Sewart PLLC., law firm after losing in the Justice of the Peace Court.

17. On March 19, 2020, P.C.F. PROPERTIES IN TX LLC., filed a “Forcible Detainer” action against Elizabeth Thomas or All Other Occupants for possession of the property located at 8202 Terra Valley Lane Texas 77375 in the Justice of the Peace Court Precinct 4, Place 1 Cause No. 1156772,.

18. P.C.F. PROPERTIES IN TX LLC alleged Debtor Thomas defaulted on her mortgage loan from Flagstone Lending Group a Utah Corporation as a result on March 3, 2020, its counsel Anna Sewart the alleged “substitute trustee” foreclosed on beneficiary Flagstone “Deed of Trust” formerly recorded in the Public Harris County Real Property Record, *under instrument* No. 20070643669, and the Trustee Deed was recorded on March 13, 2020.

19. Ms. Thomas responded that said Flagstone Lending Group a Utah Corporation has been recorded as release due to being wrongfully recorded and this Flagstone a Utah Corporation has

no legal existence or funded Thomas with a loan effective the release was recorded on **December 27, 2016**, stating that said deed of trust no longer has any legal force or effect.

20. Secondly Debtor Thomas also raised the affirmative defense that her mortgage loan from lender said Flagstone Lending Group L.P/MTH Lending Group was been in bankruptcy in the year of 2011.

21. On July 13, 2020, the Honorable Judge Lincoln, held a non-jury trial; and ruled that on March 3, 2020, Ana Sewart the alleged substitute trustee had no power to transfer title of the property to P.C.F. PROPERTIES IN TX LLC., because the Deed of Trust had been recorded as release in the public record no longer has any legal force or effect. Therefore P.C.F. PROPERTIES IN TX LLC., could not have obtained title or color of title from the substitute trustee. See Martin v. Cadle Company, 133 S.W.3d 897 (Tex. App.- 2004 Precedential) and the court awarded possession of said property to Elizabeth Thomas and James Allen..

22. On July 13, 2020, P.C.F. PROPERTIES IN TX LLC., *filed a* appealed to the County Court at Law No. 3 cause number No. 1156772, case entitled P.C.F. PROPERTIES IN TX vs. *Elizabeth Thomas, Inventor James Allen et al*, before the Honorable Judge LaShawn A. Williams.

23. On **August 20, 2020**, Barry & Stewart, wrote a letter to Attorney James Andersen and threaten him that unless he agrees to make a statement that the signatures on certain documents recorded in the Harris County Real Property (i) Special Warranty Deed; and (ii) Satisfaction of Deed of Trust cancelling the trust allegedly created on October 19, 2007, on behalf of Flagstone Lending Group is a Non-Existent Utah due to a lack of a existing beneficiary are both forgeries within 7 days they were going to report him to the Texas State Bar, and when Andersen failed to response within the 7 days

period a phone was placed to him offering him a financial bribe which Andersen refused.

24. The Honorable Judge LaShawn A. Williams,

25. Having loss in the Justice of the Peace Court and County Court at Law P.C.F. PROPERTIES IN TX LLC, John V. Burger together with the Barry & Sewart PLLC., law firm created this fake fictions non-existent entity P.C.F. Properties in TX, LLC to file a false affidavit alleging to be the current owner and thereby moving to the court to declare all others deeds void is just a ongoing scheme targeted against African Americans to steal their property.

26. This misc docket number does not exist according thee Harris County District Clerk Administration office this whole proceeding is merely evidence of ongoing fraud.

Cause of Action

Declaratory Judgment

27. Defendant brings this counterclaim pursuant to the Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code Chapter 37. Defendant asks this Court to declare that (i) P.C.F. Properties in TX, LLC is a fake fictions non-existent entity (ii) this Misc Docket No. 2020-35780 is fake cause of action number that does not exist; and (iii) that neither the Defendant or fake fictions non-existent entity P.C.F. Properties in TX, LLC, hold any interest in any property located at 8202 Terra Valley Lane, Tomball TX, 77375.

Attorney Fees

28. 26. Defendant seeks recovery of its costs and reasonable and necessary attorneys' fees from Plaintiff pursuant to Tex. Civ. Prac. & Rem. Code Sec. 37.009.

. Conditions Precedent

29. All conditions precedent to Defendants' right to recover have been performed, have occurred, and/or have been waived

III. REQUEST FOR DISCLOSURES

30. Defendants hereby request that the Plaintiffs disclose the information set forth in TRCP 194.2(a) through (l) within 31 days of receipt of this request and that Plaintiffs supplement such responses on an ongoing basis as soon as additional information becomes known.

IV. NOTICE UNDER TEX. R. CIV. P. 193.7

31. Defendants serve notice of their intent to rely on the self-authentication provisions of Rule 193.7 TRCP with respect to any document produced by any party unless the producing party or some other party objects as required by the rule.

Respectfully submitted

/s/ James M. Andersen

James M, Andersen
Attorney At Law
Texas State Bar No. 01165850
P. O. Box 58554
Webster, Texas 77598-8554
Tel. (218)488-2800
Fax. (281)480-4851
Jandersen.law@gmail.com

CERTIFICATE OF SERVICE

I certify that on the 9th day of October 2024, a true and correct copy of the foregoing document was served by E-File to all parties of record or by email and/or mail via the United States Postal Service regular mail.

/s/ James M. Andersen

James M, Andersen

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

James Andersen on behalf of James Andersen

Bar No. 01165850

jandersen.law@gmail.com

Envelope ID: 92963814

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendant Answer Affirmative Defenses and Counter-Claims

Status as of 10/9/2024 11:34 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
James Allen		jamesthegreat74@gmail.com	10/9/2024 11:29:14 AM	SENT
Colleen McClure		mcclurelegalassistant@gmail.com	10/9/2024 11:29:14 AM	SENT
HONORABLE ADMINISTRATIVE JUDGE SUSAN BROWN HONORABLE ADMINISTRATIVE JUDGE SUSAN BROWN		Rebecca_Brite@justex.net	10/9/2024 11:29:14 AM	SENT
Keith AWolfshol		KeithW@barryandsewart.com	10/9/2024 11:29:14 AM	SENT
AUSTIN DUBOIS		austin@barryandsewart.com	10/9/2024 11:29:14 AM	SENT
ANNA SEWART		ACSEWART@BARRYANDSEWART.COM	10/9/2024 11:29:14 AM	SENT
Alzadia Spire		alzadia@spireslawfirm.com	10/9/2024 11:29:14 AM	SENT
ELIZABETH THOMAS		TETHOMAS3@AOL.COM	10/9/2024 11:29:14 AM	SENT
James Andersen		jandersen.law@gmail.com	10/9/2024 11:29:14 AM	SENT
Nicholas Frame		nick@barryandsewart.com	10/9/2024 11:29:14 AM	ERROR
Wm. LanceLewis		llewis@qslwm.com	10/9/2024 11:29:14 AM	SENT
Rachel Hytken		rhytken@qslwm.com	10/9/2024 11:29:14 AM	SENT
Honorable Judge Susan Brown Judge Susan Brown		Rebecca_Brite@justex.net	10/9/2024 11:29:14 AM	SENT